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9  
10 UNITED STATES DISTRICT COURT

11 DISTRICT OF NEVADA

12 SAHAR GHANAVATIAN, } Case No.: 2:14-cv-1675  
13 Plaintiff, }  
14 vs. }  
15 MAX BRENNER LAS VEGAS LLC, } COMPLAINT  
16 a Nevada limited liability company, }  
17 dba MAX BRENNER, } JURY DEMAND  
18 Defendant. }

19 Plaintiff SAHAR GHANAVATIAN states as follows:

20 **Jurisdiction**

21 1. This is an action for damages arising under Title VII of the Civil Rights Act of 1964  
22 (“Title VII”), 42 U.S.C. §§ 2000e to 2000e-17.

23 2. This Court has primary jurisdiction over claims set forth herein pursuant to 28 U.S.C.  
24 § 1331 (federal question), 28 U.S.C. § 1343(a)(4) (civil rights action), and 42 U.S.C. § 2000e-5(f)(3).  
25 This Court also has supplemental jurisdiction over any and all pendent state law claims pursuant to  
26 28 U.S.C. § 1337.

27 3. All material allegations contained in this complaint are believed to have occurred in  
28 the State of Nevada, in the County of Clark; therefore, pursuant to 28 U.S.C. § 1331(b)(2), venue  
properly lies in the southern division of the United States District Court for the District of Nevada.

29 **Exhaustion of Administrative Remedy**

30 4. On April 30, 2012, Ms. Ghanavatian filed a complaint of unlawful discrimination  
31 with the Nevada Equal Rights Commission (“NERC”) against Defendant Max Brenner Las Vegas

1 LLC, alleging that she had been subjected to unlawful discrimination in employment due to sex  
 2 (female) and sexual orientation (Lesbian) during her employment with Defendant.

3       5. On June 13, 2012, Ms. Ghanavatian formally submitted her Charge of Discrimination  
 4 against Defendant Max Brenner Las Vegas LLC to the NERC, alleging unlawful discrimination in  
 5 employment due to sex (female) and sexual orientation (Lesbian) during her employment with  
 6 Defendant. A true and correct copy of this Charge of Discrimination is attached as Exhibit 1.

7       6. By letter dated June 20, 2012, the NERC formally notified Defendant that Ms.  
 8 Ghanavatian filed a Charge of Discrimination. A copy of Ms. Ghanavatian was attached to this  
 9 formal notification. This formal notification was received by Defendant shortly after the date on the  
 10 letter stating that it was mailed.

11      7. On March 12, 2013, Ms. Ghanavatian filed an Amended Charge with the NERC. She  
 12 amended her Charge of Discrimination to include allegations that she was subjected to unlawful  
 13 discrimination on account of her national origin (Persian/Iranian) and that she had been subjected  
 14 to unlawful retaliation in response to her filing her earlier Charge of Discrimination. A true and  
 15 correct copy of this Amended Charge of Discrimination is attached as Exhibit 2.

16      8. By letter dated July 15, 2014, the EEOC issued its “Dismissal and Notice of Rights”  
 17 to Ms. Ghanavatian. A true and correct copy of this Notice is attached as Exhibit 3.

18      9. Ms. Ghanavatian subsequently received this Notice.

19      10. This action has been filed with this Court within 90 days of the date of the “Dismissal  
 20 and Notice of Rights” sent to Ms. Ghanavatian and within 90 days of Ms. Ghanavatian’s receipt of  
 21 said notice. Therefore, this action is timely filed pursuant to 42 U.S.C. § 2000e-5(f).

22      11. Ms. Ghanavatian, therefore, has exhausted her administrative remedy on all claims  
 23 pled hereunder prior to filing this action with this Court.

#### General Allegations

25      12. Ms. Ghanavatian repeats the allegations contained in paragraphs 1 to 11, *supra*.

26      13. At the time that each of the allegations set forth in this Complaint occurred, Ms.  
 27 Ghanavatian was a citizen of the State of Nevada and a resident of Clark County, Nevada.

28      14. Defendant Max Brenner Las Vegas LLC is a limited liability company organized

1 under the laws of the State of Nevada. It transacted business in Clark County, Nevada, under the  
 2 name "Max Brenner." Its place of business within Clark County, Nevada, was 3500 Las Vegas  
 3 Boulevard South, Las Vegas, Nevada.

4       15. Defendant had over 15 employees at all times relevant to this matter.

5       16. Ms. Ghanavatian commenced employment with Defendant as a Server on or around  
 6 July 21, 2010.

7       17. Ms. Ghanavatian is female.

8       18. Ms. Ghanavatian is Lesbian.

9       19. Ms. Ghanavatian is of Persian/Iranian heritage.

10      20. The following particulars of the claims of unlawful discrimination and retaliation to  
  11 which Ms. Ghanavatian was subjected during her employment with Defendant were set forth in the  
  12 Charge of Discrimination that she filed with the NERC and which is attached as Exhibit 1:

13           a. From January 3, 2012, through January 17, 2012, Defendant, through its  
  14 employees, agents and managers, harassed Ms. Ghanavatian and denied her equal terms and  
  15 conditions of employment.

16           b. On January 3, 2012, Ms. Ghanavatian was introduced to the new general  
  17 manager, Scott Adriance. In the course of their first meeting, Mr. Adriance said to Ms. Ghanavatian,  
  18 "Why do you look that way?"

19           c. Over the course of the two weeks subsequent to that meeting, Mr. Adriance  
  20 would make crude and hurtful comments to other employees which were clearly referencing Ms.  
  21 Ghanavatian. For example, he once told another female employee, "If you cut your hair any shorter,  
  22 you'll look like a f---ing dyke." This comment clearly referenced Ms. Ghanavatian as she was the  
  23 female server with the shortest hair and she was the only female server who was out as Lesbian.

24           d. Over the course of the two weeks subsequent to that meeting, Mr. Adriance  
  25 would hold Ms. Ghanavatian to a different, stricter, standard of work performance. He would  
  26 continually chastise Ms. Ghanavatian and criticize her work in front of others, a practice he did not  
  27 repeat with other servers. He would continually chastise Ms. Ghanavatian for not getting guests their  
  28 checks "quickly enough," but not openly criticize other servers for substantially similar job

1 performance.

2 e. Ms. Ghanavatian filed her initial complaint with the NERC on or about April  
3 30, 2012.

4 21. The following additional particulars of the claims of unlawful discrimination and  
5 retaliation to which Ms. Ghanavatian was subjected during her employment with Defendant were  
6 set forth in the Amended Charge of Discrimination that she filed with the NERC and which is  
7 attached as Exhibit 2:

8 a. During the entire period of Ms. Ghanavatian's employment in which Mr.  
9 Adriance was General Manager, Mr. Adriance showed favoritism in scheduling, station assignments,  
10 and discipline towards employees who had a light, "Northern European" complexion and hair color.  
11 Ms. Ghanavatian and one other female were the only employees of Persian/Iranian ancestry, heritage  
12 or ethnicity, and, as such, were the employees with the darkest complexion and hair color.

13 b. Shortly after Defendant received Ms. Ghanavatian's Charge of Discrimination  
14 in June 2012, her schedule was reduced and she was assigned to work fewer hours than servers with  
15 less seniority.

16 c. On August 20, 2012, Ms. Ghanavatian was written up and suspended for an  
17 alleged "no call no show" on August 16, 2012, when, in fact, Ms. Ghanavatian had never been given  
18 a schedule showing that she was scheduled to work that day or that week.

19 d. No other server had his of her schedule changed with the level of frequency  
20 that Ms. Ghanavatian had her schedule changed during this time period.

21 e. No other server had ever filed a charge of discrimination against Defendant  
22 with the NERC or EEOC.

23 f. On August 27, 2012, Ms. Ghanavatian was fired.

24 g. Ms. Ghanavatian was told that she was being fired for insubordination because  
25 she asked to have her attorney present when Defendant demanded that she sign a document that  
26 falsely described the events of the incident regarding August 16, 2012, referenced in paragraph 21(b)  
27 above.

28 . . . .

### **First Claim for Relief**

## *Unlawful Sex Discrimination in Violation of Title VII and NRS 613.330(1)*

22. Ms. Ghanavatian repeats the allegations contained in paragraphs 1 to 21, *supra*.

23. By the actions set forth above, Defendant violated 42 U.S.C. § 2000e-2(a) and NRS 613.330(1) because it unlawfully discriminated against Ms. Ghanavatian because of her sex, female:

a. Ms. Ghanavatian is female.

b. Ms. Ghanavatian was qualified for her position of Server and performed at a level deemed acceptable in servers who were not female.

c. Ms. Ghanavatian was subject to adverse job actions, including scheduling changes, inequitable discipline and eventual termination.

d. These adverse job actions occurred under circumstances indicating sex discrimination.

e. The stated reasons for giving preferential treatment to those not of the same gender as Ms. Ghanavatian were a pretext for invidious and unlawful sex discrimination.

24. Because Defendant unlawfully discriminated against Ms. Ghanavatian because of her sex, Defendant must pay Ms. Ghanavatian damages in an amount to be determined at trial for backpay, frontpay, lost benefits, and compensatory damages for emotional pain, suffering, inconvenience, mental anguish and loss of enjoyment of life.

25. Ms. Ghanavatian has had to procure the services of an attorney to protect her rights and to secure compensation for damages incurred as a result of these violations of Title VII; therefore, she is entitled to recover reasonable attorneys' fees pursuant to 42 U.S.C. § 2000e-5(k).

## **Second Claim for Relief**

## *Unlawful Sexual Orientation Discrimination in Violation of NRS 613.330(1)*

26. Ms. Ghanavatian repeats the allegations contained in paragraphs 1 to 25, *supra*.

27. By the actions set forth above, Defendant violated NRS 613.330(1) because it unlawfully discriminated against Ms. Ghanavatian because she is Lesbian:

a. Ms. Ghanavatian is Lesbian.

b. Ms. Ghanavatian was qualified for her position of Server and performed at

1 a level deemed acceptable in servers who were not gay or Lesbian.

2 c. Ms. Ghanavatian was subject to adverse job actions, including scheduling  
3 changes, inequitable discipline and eventual termination.

4 d. These adverse job actions occurred under circumstances indicating  
5 discrimination on the basis of sexual orientation.

6 e. The stated reasons for giving preferential treatment to those not who were not  
7 gay or Lesbian were a pretext for invidious and unlawful sex discrimination.

8 28. Because Defendant unlawfully discriminated against Ms. Ghanavatian because of her  
9 sexual orientation, Defendant must pay Ms. Ghanavatian damages in an amount to be determined  
10 at trial for backpay, frontpay, lost benefits, and compensatory damages for emotional pain, suffering,  
11 inconvenience, mental anguish and loss of enjoyment of life.

12 29. Ms. Ghanavatian has had to procure the services of an attorney to protect her rights  
13 and to secure compensation for damages incurred as a result of these violations of NRS 613.330(1);  
14 therefore, she is entitled to recover an additional amount as special damages for attorney's fees  
15 incurred.

16 **Third Claim for Relief**

17 *Unlawful National Origin Discrimination in Violation of Title VII and NRS 613.330(1)*

18 30. Ms. Ghanavatian repeats the allegations contained in paragraphs 1 to 29, *supra*.

19 31. By the actions set forth above, Defendant violated 42 U.S.C. § 2000e-2(a) and NRS  
20 613.330(1) because it unlawfully discriminated against Ms. Ghanavatian because of her national  
21 origin, Persian/Iranian:

22 a. Ms. Ghanavatian is of the Persian or Iranian ethnic heritage.

23 b. Ms. Ghanavatian was qualified for her position of Server and performed at  
24 a level deemed acceptable in servers who were not dark-skinned.

25 c. Ms. Ghanavatian was subject to adverse job actions, including scheduling  
26 changes, inequitable discipline and eventual termination.

27 d. These adverse job actions occurred under circumstances indicating national  
28 origin discrimination.

1                   e.         The stated reasons for giving preferential treatment to those who were of  
 2 lighter skin and hair color relative to Ms. Ghanavatian, and the other employee of Persian/Iranian  
 3 ancestry, heritage or ethnicity, were a pretext for invidious and unlawful national origin  
 4 discrimination.

5                   32.      Because Defendant unlawfully discriminated against Ms. Ghanavatian because of her  
 6 sex, Defendant must pay Ms. Ghanavatian damages in an amount to be determined at trial for  
 7 backpay, frontpay, lost benefits, and compensatory damages for emotional pain, suffering,  
 8 inconvenience, mental anguish and loss of enjoyment of life.

9                   33.      Ms. Ghanavatian has had to procure the services of an attorney to protect her rights  
 10 and to secure compensation for damages incurred as a result of these violations of Title VII;  
 11 therefore, she is entitled to recover reasonable attorneys' fees pursuant to 42 U.S.C. § 2000e-5(k).

#### **Fourth Claim for Relief**

##### *Unlawful Retaliation in Violation of Title VII and NRS 613.330(1)*

14                  34.      Ms. Ghanavatian repeats the allegations contained in paragraphs 1 to 33, *supra*.

15                  35.      By the actions set forth above, Defendant violated 42 U.S.C. § 2000e-3(a) and NRS  
 16 613.340(1) because it unlawfully retaliated against Ms. Ghanavatian for filing her Charge of  
 17 Discrimination with the NERC.

18                  36.      Because Defendant unlawfully retaliated against Ms. Ghanavatian for filing a Charge  
 19 of Discrimination, Defendant must pay Ms. Ghanavatian damages in an amount to be determined  
 20 at trial for backpay, frontpay, lost benefits, and compensatory damages for emotional pain, suffering,  
 21 inconvenience, mental anguish and loss of enjoyment of life.

22                  37.      Ms. Ghanavatian has had to procure the services of an attorney to protect her rights  
 23 and to secure compensation for damages incurred as a result of these violations of Title VII;  
 24 therefore, she is entitled to recover reasonable attorneys' fees pursuant to 42 U.S.C. § 2000e-5(k).

25                  WHEREFORE, Plaintiff SAHAR GHANAVATIAN prays that the following judgment be  
 26 entered upon a trial by jury, against Defendant MAX BRENNER LAS VEGAS LLC, a Nevada  
 27 limited liability company, dba MAX BRENNER:

28                  1.         Monetary damages in an amount to be determined at trial, which continue to accrue;

2. An award of interest on the amount owed;
3. Punitive damages;
4. An award of attorneys' fees and costs pursuant to 42 U.S.C. § 2000e-5(k), or any other statute, as appropriate; and
5. Any further relief that this Court deems just.

Respectfully submitted,

## LAW OFFICES OF ROBERT P. SPRETNAK

By: /s/ Robert P. Spretnak  
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## Attorney for Sahar Ghanavatian

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